



January 30, 2002

HOUSE JOINT RESOLUTION No. 2

DIGEST OF HJ 2 (Updated January 29, 2002 2:52 PM - DI 84)

Citations Affected: Article 5 of the Indiana Constitution.

Synopsis: Discharging the governor's powers and duties. Provides that the general assembly may provide by law for persons other than the governor to discharge the governor's powers and until the general assembly fills a vacancy in the office when both the office of the governor and the office of the lieutenant governor are vacant. Provides that a law enacted by the general assembly after December 31, 2001, to provide for persons other than the governor to discharge the governor's powers and duties when the offices of governor and lieutenant governor are vacant is valid if consistent with the amendment and with the constitution in general. Provides that the general assembly may amend and repeal such a law. Provides that the acts of a person who discharges the governor's powers and duties under the law are valid if the acts are performed consistently with the constitution and other Indiana laws. This proposed amendment has not been previously agreed to by a general assembly.

Effective: This proposed amendment must be agreed to by two consecutive general assemblies and ratified by a majority of the state's voters voting on the question to be effective.

Murphy, Grubb

January 8, 2002, read first time and referred to Committee on Rules and Legislative Procedures.
January 29, 2002, reported — Do Pass.

HJ 2 — HJ 9204/DI 75+



C
o
p
y

January 30, 2002

Second Regular Session 112th General Assembly (2002)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2001 General Assembly.

HOUSE JOINT RESOLUTION No. 2

A JOINT RESOLUTION proposing an amendment to Article 5 of the Indiana Constitution concerning state offices and administration.

Be it resolved by the General Assembly of the State of Indiana:

- 1 SECTION 1. ARTICLE 5, SECTION 10 OF THE CONSTITUTION
- 2 OF THE STATE OF INDIANA IS AMENDED TO READ AS
- 3 FOLLOWS: Section 10. (a) In case the Governor-elect fails to assume
- 4 office, or in case of the death or resignation of the Governor or ~~his the~~
- 5 **Governor's** removal from office, the Lieutenant Governor shall
- 6 become Governor and hold office for the unexpired term of the person
- 7 whom ~~he the~~ **Lieutenant Governor** succeeds. In case the Governor is
- 8 unable to discharge the powers and duties of ~~his the~~ office, the
- 9 Lieutenant Governor shall discharge the powers and duties of the office
- 10 as Acting Governor.
- 11 (b) Whenever there is a vacancy in the office of Lieutenant
- 12 Governor, the Governor shall nominate a Lieutenant Governor who
- 13 shall take office upon confirmation by a majority vote in each house of

HJ 2 — HJ 9204/DI 75+



C
O
P
Y

1 the General Assembly and hold office for the unexpired term of the
 2 ~~person whom he succeeds: previous Lieutenant Governor.~~ If the
 3 General Assembly is not in session, the Governor shall call it into
 4 special session to receive and act upon the Governor's nomination. In
 5 the event of the inability of the Lieutenant Governor to discharge the
 6 powers and duties of ~~his~~ **the** office, the General Assembly may provide
 7 by law for the manner in which a person shall be selected to act in ~~his~~
 8 **the Lieutenant Governor's** place and declare which powers and duties
 9 of the office such person shall discharge.

10 (c) Whenever the Governor transmits to the President pro tempore
 11 of the Senate and the Speaker of the House of Representatives ~~his~~ **the**
 12 **Governor's** written declaration that ~~he~~ **the Governor** is unable to
 13 discharge the powers and duties of ~~his~~ **the** office, and until ~~he~~ **the**
 14 **Governor** transmits to them a written declaration to the contrary, such
 15 powers and duties shall be discharged by the Lieutenant Governor as
 16 Acting Governor. Thereafter, when the Governor transmits to the
 17 President pro tempore of the Senate and the Speaker of the House of
 18 Representatives ~~his~~ **the Governor's** written declaration that no
 19 inability exists, ~~he~~ **the Governor** shall resume the powers and duties
 20 of ~~his~~ **the** office.

21 (d) Whenever the President pro tempore of the Senate and the
 22 Speaker of the House of Representatives file with the Supreme Court
 23 a written statement suggesting that the Governor is unable to discharge
 24 the powers and duties of ~~his~~ **the** office, the Supreme Court shall meet
 25 within forty-eight hours to decide the question and such decision shall
 26 be final. Thereafter, whenever the Governor files with the Supreme
 27 Court ~~his~~ **the Governor's** written declaration that no inability exists,
 28 the Supreme Court shall meet within forty-eight hours to decide
 29 whether such be the case and such decision shall be final. Upon a
 30 decision that no inability exists, the Governor shall resume the powers
 31 and duties of ~~his~~ **the** office.

32 (e) Whenever there is a vacancy in both the office of Governor and
 33 Lieutenant Governor, the General Assembly shall convene in joint
 34 session forty-eight hours after such occurrence and elect a Governor
 35 from and of the same political party as the immediately past Governor
 36 by a majority vote of each house. **If either house of the General**
 37 **Assembly is unable to assemble a majority of its members because**
 38 **of vacancies in the membership of that house, the General**
 39 **Assembly shall convene not later than forty-eight hours after a**
 40 **sufficient number of the vacancies are filled to provide a majority**
 41 **of members for that house. The General Assembly may provide by**
 42 **law for persons other than the Governor to discharge the**



C
o
p
y

1 Governor's powers and duties until the General Assembly fills a
2 vacancy described in this subsection.

3 (f) The following apply to a law enacted by the General
4 Assembly after December 31, 2001, that provides for persons other
5 than the Governor to discharge the Governor's powers and duties
6 until the General Assembly fills a vacancy in the office of Governor
7 described in subsection (e):

8 (1) The law is valid if both of the following apply:

9 (A) The law is consistent with subsection (e) to provide for
10 the discharge of the Governor's powers and duties by
11 persons other than the Governor.

12 (B) The law is otherwise consistent with this Constitution.

13 (2) The General Assembly may amend or repeal the law.

14 (3) The acts of an individual who discharges the Governor's
15 powers and duties under the law are valid if exercised
16 consistently with this Constitution and other Indiana laws.

C
o
p
y



COMMITTEE REPORT

Mr. Speaker: Your Committee on Rules and Legislative Procedures, to which was referred House Joint Resolution 2, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said resolution do pass.

MOSES, Chair

Committee Vote: yeas 8, nays 0.

C
o
p
y

